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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,921	10/27/2001	Senthil Kumar	REIM-0002	2210

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EXAMINER	
VAN BRAMER, JOHN W	

ART UNIT	PAPER NUMBER
3622	

NOTIFICATION DATE	DELIVERY MODE
05/19/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@hittgaines.com

Office Action Summary	Application No.	Applicant(s)	
	10/035,921	KUMAR ET AL.	
	Examiner	Art Unit	
	John Van Bramer	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 February 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-11,13-18 and 20-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4, 6-11, 13-18, and 20-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment filed on February 7, 2008 cancelled no claims. Claims 1, 8, 15, and 21 were amended and no new claims were added. Thus, the currently pending claims are Claims 1-4, 6-11, 13-18, and 20-24.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 6, 8, 13, 15, 20, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hite et al. (U.S. Patent Number: 5,774,170).

Claims 1, 8, and 15: Hite discloses a media and advertisement player, a method of manufacturing a media and advertisement player, and a method of playing media and advertisements and reporting the playing of the media and advertisements to a remote system respectively, each comprising:

a. A media player that receives and stores media from a remote system via said computer network and plays stored media content in response to customer requests, said customer requests constrained by playback rules that select among media content to be distributed, received, and stored among a plurality of media players, wherein said media player receives and stores, according to said playback rules, at least some different content than another of said plurality of media players, wherein

said media is selected from the group consisting of audio music, music videos, and skins. (Col 1, lines 6-10; Col 5, line 28 through Col 6, line 39; Col 6, line 60 through Col 7, line 34; Col 7, lines 51-63; Col 9, lines 32-42; and Col 14, lines 59-65)

b. An advertisement player that receives advertisements and a corresponding advertising schedule from said remote system via said computer network that stores and plays said advertisements according to said advertising schedule, said advertising schedule being dependent upon a play of a content of said media, wherein said advertising schedule is correlated to said stored media content, said stored media content constrained by said playback rules. (Col 6, line 10 through Col 7, line 14)

c. A tracking subsystem that generates as-run logs derived from customer requests containing records of a playing of contents of said media and said advertisements and transmits said as-run logs to said remote system via said computer network, said as-run logs employed by said remote system to adjust playback rules. (Col 4, line 62 through Col 5, line 27)

Claims 6, 13, and 20: Hite discloses the media and advertisement player, the method of manufacturing a media and advertisement player, and the method of playing media and advertisements and reporting the playing of the media and advertisements to a remote system as recited in claims 1, 8 and 15 respectively, further comprising a personal computer, said media and said advertisements being stored on a hard disk drive of said personal computer. (Col 6, line 60 through Col 7, line 14)

Claim 22: Hite discloses the media and advertisement player of claim 1, wherein said advertising schedule being dependent upon plays of selected content of said media further comprises said advertising schedule being based on a selection of content a first media but not from a selection of content of a second media. (Col 4, line 25 through Col 5, line 27)

Claim 23: Hite discloses the media and advertisement player of claim 1, wherein said advertising schedule is based on said given advertisement and its proximity to a content of said particular media being played. (Col 4, line 25 through Col 5, line 27)

Claim 24: Hite discloses the media and advertisement player of claim 1, wherein said advertising schedule is based on at least one aspect selected from the group consisting of: a geographic location of said media player and said advertisement player, an establishment type in which said media player and advertisement player are located, a demographic of establishment in which said media and said advertisement player is located, a time of day, a date, a day of a week, a month of a year, and a season of a year. (Col 3, line 65 through Col 4, line 11; and Col 8, lines 18-39)

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to

a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 2-4, 7, 9-11, 14, 16-18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hite et al. (U.S. Patent Number: 5,774,170) in view of Noll et al. (PGPUB: US 2002/0054087 A1).

Claims 2, 9, and 16: Hite discloses the media and advertisement player, the method of manufacturing a media and advertisement player, and the method of playing media and advertisements and reporting the playing of the media and advertisements to a remote system as recited in claims 1, 8 and 15 respectively. While Hite does not specifically state that there is a graphical user interface that is part of the display, Hite does discloses in Col 4, lines 52-61 that some user interactions with the display are tracked, therefore the user must be able to interact with the display in some manner. The analogous art of Noll discloses client software on the user machine that generates a graphical user interface (Paragraph [0007]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a graphical user interface as the mechanism for initiating the user interactions disclosed by Hite. The rational for using a graphical user interface it that it is one of a limited number of predictable methods for providing the organized, consistent and efficient display of interactive data to a user.

Claims 3, 10, and 17: Hite and Noll disclose the media and advertisement player, the method of manufacturing a media and advertisement player, and the method of playing media and advertisements and reporting the playing of the media and advertisements to

a remote system as recited in claims 2, 9 and 16 respectively, wherein said graphical user interface has a skin that is received from said remote system via said computer network. (Noll: Paragraphs [0007]; and [0042])

Claims 4, 11, and 18: Hite and Noll disclose the media and advertisement player, the method of manufacturing a media and advertisement player, and the method of playing media and advertisements and reporting the playing of the media and advertisements to a remote system as recited in claims 2, 9 and 16 respectively, wherein said display is touch-sensitive. (Noll: Paragraph [0050])

Claims 7, 14, and 21: Hite discloses the media and advertisement player, the method of manufacturing a media and advertisement player, and the method of playing media and advertisements and reporting the playing of the media and advertisements to a remote system as recited in claims 1, 8 and 15 respectively. While Hite discloses that the data is transmitted to the display site via electrical means, Hite does not specifically state that the transmission occurs over the Internet. However, the analogous art of Noll discloses the transmission of commercials and other broadband data via the Internet (Noll: Paragraph [0007]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the inventions was made to use the internet as a transmission medium. The rational for using the Internet is that the Internet is one of a limited number of predicable mediums with which electronic data can be conveyed to a user.

Response to Arguments

6. Applicant's arguments filed on February 7, 2008 have been considered but are not persuasive. The applicants arguments are directed towards the newly proposed amendments to the claims and as such have been addressed in the rejection above. The examiner notes that the arguments indicate the inability to find the newly proposed amendments in the passages cited by the examiner. Thus, the examiner has cited additional passages in the rejection above which disclose the newly proposed limitations. Notably the current rejection recites the storage and display of both the media content and the targeted commercial at the display site when a customer requests a video on demand. Additionally, the examiner notes that the applicant is claiming a media and advertisement player, a method of manufacturing said player, and a method of playing media and advertisements. The newly proposed amendments directed towards the receipt of media, the receipt advertisements or actions performed by other media players is outside the scope established by the preamble and as such bears little if any patentable weight regarding the limitations imposed by the current claims. Since the commercials of Hite are targeted, and the media of Hite is customer selectable via a video on demand system (Col 1, lines 6-10; Col 5, line 28 through Col 6, line 39; Col 6, line 60 through Col 7, line 34; Col 7, lines 51-63; Col 9, lines 32-42; and Col 14, lines 59-65). Therefore, Hite meets the limitations of the currently amended claims. Additionally, the Hite reference discloses that the CID codes in the media are matched with the CID codes of the advertisements. This represents a correlation between the media content and the advertising schedule (Col 6, line 10 through Col 7, line 14).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J.V.
/J. V./
Examiner, Art Unit 3622

/Eric W. Stamber/
Supervisory Patent Examiner, Art Unit 3622